

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

_____,

Defendant(s).

CASE NO. CR -R

ORDER RE: DISCOVERY, STIPULATIONS AND EVIDENCE IN CRIMINAL CASES

In order to obviate unnecessary motions for discovery in criminal actions, proceedings, matters or cases assigned to the undersigned court for trial,

IT IS ORDERED:

1.0 Meeting of counsel

Within seven (7) days after a plea of not guilty has been entered by a defendant, the United States Attorney and the defendant's attorney shall meet and confer and provide the discovery and expedition of the trial contemplated by this order

1.1 Definitions

(a) When the term “available to the government” is used herein, it shall include, but not be limited to those items in the actual possession, custody or control of the United States Attorney, such

1 items as may be acquired by inquiry of law enforcement officials, local, state, and federal, or of private
2 sources involved in the transaction of transactions surrounding the offense/offenses charged in the
3 information/indictment.

4 1.2 Discovery by defendant

5 The government shall at the conference provide defendant's attorney with:

6 (a) Statement of defendant. A copy of defendant's written or recorded statements or confessions
7 relevant to the charge or charges which are available to the government.

8 The government shall advise defendant's attorney of the substance of any oral statement
9 available to the government in response to any interrogation by an employee or agent of any
10 governmental agency, local, state, or federal, or private source involved in the investigation or reporting
11 of the offense/offenses charged in the information/indictment.

12 A copy of the recorded testimony of the defendant before a grand jury which relates to the
13 offense/offenses charged in the information/indictment.

14 (b) Prior record. A copy of the prior criminal record of the defendant and the prior felony
15 convictions of any witness the government intends to call in its case in chief.

16 (c) Documents and tangible objects. All books, papers, documents, photographs, tangible
17 objects or copies or portions thereof relevant to the offense/offenses charged in the
18 information/indictment available to the government. The attorney for defendant shall be given
19 reasonable access to the items produced for the purpose of copying or photographing them.

20 (d) Reports of examinations and tests. The results, by the original or copy, of physical or mental
21 examinations and of scientific tests or experiments made in connection with the particular case and
22 available to the government.

23 Defendant's attorney shall be given reasonable access to the reports produced for the purpose of
24 copying or photographing them.

25 (e) Expert witnesses. A written résumé of the qualifications of any expert witness which the
26 United States Attorney intends to call in the case in chief together with a statement of the substance of
27 such expert's expected testimony.

28 (f) Electronic surveillance. A statement of the existence or non-existence of any evidence

1 obtained as the result of electronic surveillance. The production of such material shall be subject to
2 hearing by the Court as hereinafter described.

3 (g) Informers. A statement of the existence or non-existence of testimony by a government
4 informer. The question of privilege of non-disclosure by the government shall be subject to hearing by
5 the Court as hereinafter described.

6 (h) Brady material. All material within the purview of Brady v. Maryland, 373 U.S. 83 (1963)
7 and Giglio v. United States, 405 U.S. 150 (1972).

8 1.3 Discovery by government.

9 The defendant's attorney shall at the conference disclose to the United States Attorney:

10 (a) Expert witnesses. A written resume of the qualifications of any expert witness which the
11 defendant intends to call in his case in chief together with a statement of the substance of such expert's
12 expected testimony.

13 (b) Scientific or medical reports. The results, by the original or a copy, of any scientific or
14 medical report which defendant intends to use in the presentation of his case in chief.

15 (c) Defense of alibi. The United States Attorney shall at the conference notify defendant in
16 writing of the specific time, date and place at which the offense/offenses charged in the
17 information/indictment is/are alleged to have been committed.

18 Defendant shall, in writing, within three (3) days thereafter notify the United States Attorney of
19 the specific place at which he claims to have been at the time of the alleged offense/offenses to which a
20 defense of alibi will be addressed and the names and addresses of the witnesses upon whom he intends
21 to rely to establish such alibi.

22 Within five (5) days thereafter or such other time as the Court may direct, the United States
23 Attorney shall inform the defendant of the names and addresses of the witnesses upon whom the
24 government intends to rely to establish defendant's presence at the scene of the alleged offense/offenses.

25 Failure to comply with the time limits set forth herein shall invoke the sanction provided in
26 Federal Rules of Criminal Procedure Rule 12.1(d).

27 (d) Defense based on mental condition. In writing that the defendant will rely upon the defense
28 of insanity at the time of the alleged crime, or of mental disease, defect, or other condition bearing upon

whether he had the mental state required for the offense/offenses charged. Notice of such claimed defense shall also be filed with the Clerk.

Failure to give such notification in writing shall invoke the sanctions set forth in Federal Rules of Criminal Procedure Rule 12.2(d).

(e) Entrapment. That defendant will rely on the defense of the procurement of government employees or agents to commit the offense/offenses charged in the information/indictment.

1.4 Objections to evidence.

Unless specific objection to the evidentiary foundation of any document, photograph, book, paper, or other tangible object disclosed by the required conference of counsel is made in the report to the court hereafter required to be filed, it shall be deemed that the requirement of foundation (including chain of custody) for the introduction of such evidence at trial is waived.

If a report produced at the required conference of counsel contains the result of a scientific test, performed by a competent expert witness (as shown by a résumé) is not objected to in the report to the court hereafter required to be filed, an objection to the admissibility of said report in lieu of the testimony of the expert performing such scientific test shall be deemed to have been waived.

1.5 Report of conference.

Within five (5) days of the conference required herein, the United States Attorney and defendant's counsel shall report to the court in writing:

(a) A statement that the conference has been held.

(b) The date of said conference.

(c) The name of the Assistant United States Attorney with whom the conference was held.

(d) A statement of the evidentiary objections or absence thereof to the admissibility of any document, photograph, book, paper, or other tangible object, or the report of any scientific test or the expertise of any proposed expert witness in lieu of the presence of the expert at trial.

(e) The disclosures of the parties, or absence thereof of any information required by paragraph 1.2 or 1.3 by either party.

1.6 Hearing on objections.

As directed by the court, the parties shall appear before the court on such date and time as

ordered, following the meeting of counsel and filing of the report required herein, for hearing of any objection either party may have to the disclosures required to be made by this Rule.

1.7 Continuing duty.

Any duty of disclosure and discovery set forth herein is a continuing one upon both parties.

1.8 Duties of counsel.

It shall be the joint duty of counsel for the defendant and the United States Attorney to schedule and provide the conference contemplated by this Rule.

The United States Attorney shall assure time and availability for such conference, within the time herein provided, unless the discovery conference and the requirements thereof are waived, in writing, by the defendant and his counsel and filed with the court. N.B. a waiver permits the introduction of evidence at the trial without objection as herein provided.

1.9 Witness statements.

The United States Attorney shall file with the court in camera a list of dates of statements of all witnesses to be called by the government in its case in chief. Such list shall be filed at least ten (10) days before trial.

The list shall include the name of the witness, the date of the statement made by the witness, and the name of the person taking the statement. Do not submit the actual transcripts of witness statements themselves.

Failure to file such statement with the court may, in the discretion of the court, preclude the presentation of testimony of any witness whose statement has been previously taken and available to the government.

DATED: _____



MANUEL L. REAL
UNITED STATES DISTRICT JUDGE